

1	MCELROY, DEUTSCH, MULVANEY &	BAKER LAW PC
2	CARPENTER, LLP	G. RICHARD BAKER Bar No. 224003
3	ROBERT P. DONOVAN ( <i>pro hac vice</i> )	richard@bakerlawpc.com
4	rdonovan@mdmc-law.com	2229 First Avenue North
5	LEWIS H. GOLDFARB	Birmingham, Alabama 35203
6	( <i>pro hac vice</i> to be filed)	Telephone: (205) 241-9608
7	lgoldfarb@mdmc-law.com	Facsimile: (205) 449-0050
8	Three Gateway Center	JACKSON & TUCKER PC
9	100 Mulberry Street	JOSEPH L. TUCKER ( <i>pro hac vice</i> )
10	Newark, New Jersey 07102	josh@jacksonandtucker.com
11	Telephone: (973) 622-7711	2229 First Avenue North
12	Facsimile: (973) 622-5314	Birmingham, Alabama 35203
13	SEDGWICK, DETERT, MORAN &	Telephone: (205) 252-3535
14	ARNOLD LLP	Facsimile: (205) 252-3536
15	KEVIN J. DUNNE Bar No. 40030	Attorneys for Plaintiffs
16	kevin.dunne@sdma.com	LAUREN RIES and SERENA ALGOZER
17	ANDREW J. KING Bar No. 253962	<i>(Additional counsel listed on signature page)</i>
18	andrew.king@sdma.com	
19	One Market Plaza	
20	Steuart Tower, 8th Floor	
21	San Francisco, California 94105	
22	Telephone: (415) 781-7900	
23	Facsimile: (415) 781-2635	
24	Attorneys for Defendants	
25	HORNELL BREWING COMPANY, INC.	
26	d/b/a FEROLITO, VULTAGGIO & SONS,	
27	INC. and BEVERAGE MARKETING USA,	
28	INC.	

17	UNITED STATES DISTRICT COURT
18	NORTHERN DISTRICT OF CALIFORNIA
19	SAN JOSE DIVISION
20	LAUREN RIES and SERENA ALGOZER, individuals on behalf of themselves and all others similarly situated,
21	CASE NO. CV 10-01139 JF
22	Plaintiffs,
23	v.
24	HORNELL BREWING COMPANY, INC., et al.,
25	Defendants.
26	<b>STIPULATION AND [PROPOSED] ORDER REGARDING EARLY NEUTRAL EVALUATION SESSION</b>

1           TO THE COURT, AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:  
2    THIS STIPULATION is entered into by and between plaintiffs, Lauren Ries and Serena Algozer  
3    ("Plaintiffs"), and defendants Hornell Brewing Company, Inc. d/b/a Ferolito Vultaggio & Sons,  
4    Inc. and Beverage Marketing USA, Inc. ("Defendants"), collectively referred to herein as the  
5    "Parties," by and through their attorneys of record and pursuant to Civil Local Rule 7-12 and  
6    ADR Local Rule 5-5.

7           WHEREAS, pursuant to an Order entered on July 23, 2010 (DE 47), this Court stayed the  
8    within action for a period of six months from July 23, 2010, pending referral of the matter to the  
9    United States Food and Drug Administration ("FDA").

10          WHEREAS, in its August 4, 2010 Notice of Appointment of Evaluator (DE-49), the  
11    Court appointed Sarah A. Good, Esq. of the firm Howard, Rich, Nemerovski, Canady, Falk &  
12    Rabkin as Evaluator ("Evaluator") for this case.

13          WHEREAS, by letter dated August 9, 2010, the Evaluator, in accordance with ADR L.R.  
14    5-7, tentatively scheduled an initial telephone conference with all counsel for August 23, 2010 to  
15    address, *inter alia*, scheduling an Early Neutral Evaluation ("ENE").

16          WHEREAS, the Parties hereto have agreed that the scheduling of the ENE should be held  
17    in abeyance pending the stay imposed by this Court; and

18          NOW, THEREFORE, the Parties jointly request and HEREBY STIPULATE that the  
19    scheduling of the ENE session should be held in abeyance pending the stay of this action.

20          **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

21    DATED: August 19, 2010                    SEDGWICK, DETERT, MORAN & ARNOLD LLP

22           By: /s/ Andrew J. King  
23                                                    Kevin J. Dunne (Bar No. 40030)  
                                                          Andrew J. King (Bar No. 253962)

24           MCELROY, DEUTSCH, MULVANEY & CARPENTER,  
25                                                    LLP

26           By: /s/ Robert P. Donovan  
27                                                    Robert P. Donovan (*pro hac vice*)  
                                                          Three Gateway Center  
                                                          100 Mulberry Street  
                                                          Newark, New Jersey 07102  
                                                          Telephone: (973) 622-7711  
                                                          Facsimile: (973) 622-5314

1 Attorneys for Defendants  
2 HORNELL BREWING COMPANY, INC. d/b/a  
3 FEROLITO, VULTAGGIO & SONS, INC., and  
BEVERAGE MARKETING USA, INC.

4 DATED: August 19, 2010 JACKSON & TUCKER PC

5 By: /s/ Joseph. L. Tucker (with permission)  
6 Joseph L. Tucker (*pro hac vice*)

7 BAKER LAW PC  
8 G. Richard Baker (Bar No. 224003)  
2229 First Avenue North  
9 Birmingham, Alabama 35203  
Telephone: (205) 241-9608  
Facsimile: (205) 449-0050

10 WILENTZ GOLDMAN & SPITZER P.A.  
11 Kevin P. Roddy (Bar No. 128283)  
Phillip A. Tortoreti (*pro hac vice* to be filed)  
12 Daniel R. Lapinski (*pro hac vice*)  
Suite 900 Box 10  
13 Woodbridge, New Jersey 07095  
Telephone: (732) 636-8000  
Facsimile: (205) 449-0050

14 DL LAW GROUP  
15 David D. Lilienstein (Bar No. 218923)  
345 Franklin Street  
16 San Francisco, California 94102  
Telephone (415) 271-7169  
Facsimile (415) 358-8484

17 Attorneys for Plaintiffs  
18 LAUREN RIES and SERENA ALGOZER

19 **[PROPOSED] ORDER**

20 Pursuant to the stipulation of the Parties, and good cause appearing therefor,

21 **IT IS SO ORDERED.**

22  
23 DATED: August 23, 2010

24  
25   
26 THE HONORABLE JEREMY FOGEL  
27 UNITED STATES DISTRICT JUDGE